

Upon your written acceptance of our Proposal or Proposal Variation relating to the supply of Services, a binding agreement is formed between you and us, and the following Terms of Service apply.

1. Agreement

- (a) The parties agree to the supply of and payment for the Services specified in the Proposal in accordance with this Agreement.
- (b) Where the Services are ongoing, then this Agreement will be for a term as set out in the Proposal or until otherwise terminated in accordance with these Terms of Service.

2. Our responsibilities

- (a) We will:
 - (i) supply the services as set out in the Proposal in accordance with the timeframes set out therein (**Services**);
 - (ii) will follow any special instructions set out in the Proposal;
 - (iii) use reasonable care and diligence in the performance of the Services; and
 - (iv) otherwise carry out its responsibilities under the Agreement in a professional manner.
- (b) In the event that you require a variation to the Services or the priority with which they are provided, then:
 - (i) you may request such variation in writing;
 - (ii) we will issue to you a further quotation (**Proposal Variation**) in writing with respect to the requested variation; and
 - (iii) we will only be required to action such variation upon written acceptance of the Proposal Variation being provided to us.
- (c) We will ensure that our personnel have the appropriate qualifications training and experience to perform their tasks comprising the Services competently and in a professional manner and that they will conduct themselves diligently with due skill and care.
- (d) We may subcontract any work hereunder to any third party without your prior written consent.

3. Your Responsibilities

- (a) In relation to the supply of Services, you:
 - (i) will provide the information, resources and access to files, records, and information technology systems as set out in the Proposal to permit us to supply the Services;
 - (ii) acknowledge that we will rely on the accuracy of the information provided by you without independently verifying it;
 - (iii) will ensure timely approval, development and sign-off of all reports, specification, and other deliverables required to provide the Services; and
 - (iv) will submit the link for Survey Data collection to:
 - A. survey participants in a timely fashion, and (if specified by us) ensure that it is sent to the demographics required in order to collect meaningful data; and
 - B. agreed upon third party or affiliate stakeholder group representatives (**Third Party Representatives**) in a timely fashion, with instructions that faithfully follow those that we issue to you under this Agreement. You acknowledge and agree that you are responsible for the performance of these Third Party Representatives who issue the link, and unless stated otherwise, we have no contractual relationship with them in relation to the Services; and

you release us from any responsibility or liability arising for your failure to comply with this clause.

- (b) Where we provide a Service which includes working with your content, you are entirely responsible for the content / data, including:
 - (i) that you warrant that the use, display, publication or distribution of the content does not infringe any laws; and
 - (ii) that the content does not contain any malware or otherwise disrupt or corrupt the data or systems of any person.
- (c) You will indemnify and hold us harmless against all costs (including legal costs), expenses, damages, accounts or other losses or liability, including those from any actions, suits, proceedings, claims or demands made against or suffered by us in connection with:
 - (i) provision of the Services; and
 - (ii) any act or omission by you with respect to your responsibilities described in this Agreement, including any and all claims made against us by any third party alleging that the content infringes any intellectual property rights or moral rights of any person or otherwise breaches any law.

4. Data collection

- (a) Where we provide you with the link to the Survey Data for Survey Data collection:
 - (i) you acknowledge and agree that it is then your responsibility to make it available to the survey participants in your preferred format; and
 - (ii) it is your responsibility to comply with any laws which require obtaining survey participant's consent to be contacted about and receive the link to the survey for collecting the Survey Data. If we provide you with any templates in this regard, you are still responsible for ensuring compliance under this clause.
- (b) You acknowledge that we collect data via Qualtrics, and agree to comply with and if necessary, consent to their terms and conditions. Qualtrics' Terms of Service can be reviewed here: <https://www.qualtrics.com/terms-of-service/>.
- (c) For Services outlined in a Proposal, due to data being collected by online surveys using Qualtrics services, we are responsible for controlling access to each participant's account and data storage, which includes creating a strong password, protecting that password, and preventing unauthorised account usage.
- (d) Survey Data will be stored in a cloud-based server and we are responsible for creating backups of your Survey Data. In the event that the survey participants are prevented from accessing Qualtrics due to an interruption of energy supply, or an interruption not attributable to scheduled maintenance, the Survey Data may be incomplete. In the event that the Survey Data is not complete under this clause, we may extend the Survey Data collection period by a reasonable further period of time in order to complete the Survey Data collection.

5. Data Analysis and Reporting

- (a) Our reports are submitted in the English language, despite the language of the nationality from which the Survey Data is collected.
- (b) You acknowledge that the Survey Data may require language translation via software for the purpose of clause 5(a), and the accuracy of the translated Survey Data is subject to the accuracy of the translating software. Whilst we take all reasonable precautions to ensure the quality of the Survey Data output, which at our sole election may include engaging a human translator, you acknowledge and agree that there may be some inaccuracies in capturing expressions and words. If you request, we agree to provide you categorisations of the Survey Data.

- (c) Upon written request, your Survey Data, which includes all data collected and specified within the Proposal or Proposal Variation, will be provided in raw format (e.g. .csv, .xlsx).
- (d) When we issue results of Survey Data in a report format, we will provide you with a draft report so that you can confirm that the information contained therein is suitable to be viewed by third parties. If you do not provide your consent or feedback to the draft report within 2 days, you will be deemed to have consented to the contents of the draft report.

6. Data Ownership

- (a) You own all data submitted by you and the Survey Data used to perform our Services and produce our outputs. Except as provided in the following paragraph, all such Survey Data is deemed confidential information and will not be used by us for any purpose other than to perform our obligations under the Agreement.
- (b) You hereby grant to us a non-exclusive, worldwide, royalty-free, fully paid, sublicensable (directly and indirectly), transferable, perpetual, and irrevocable license to anonymise and aggregate the Data and use such anonymised and aggregated data (**Usage Data**) for our business purposes which may include being exploited for profit. We will own all right, title, and interest in Usage Data. Usage Data will not include personally identifiable information and will only be used on an aggregated basis with similarly anonymised data of our other customers. With respect to each client's circumstance as specified under the Agreement, Usage Data will not be considered your Confidential Information.
- (c) We will not share Usage Data in a manner that would enable another party or entity to identify the your entity or location without our first receiving your written consent.
- (d) Online inquiries and data submissions provided via our website are also subject to these Terms of Service. No identification information will be shared with third parties. The information provided on the website will be used to i) contact or respond to the user; ii) develop a profile of our target market; iii) used to refine and further develop our product offering. On select occasions, the identification information obtained from the website may be altered to represent a fictitious identity and presented in our marketing, investment, or product development documentation.

7. Future Releases

- (a) You agree that you have not entered into this Agreement contingent on the delivery of any future software as a service programs being developed by us (**SAAS**), or dependent on any oral or written comments made by us regarding future functionality or features of our Services.
- (b) We may offer you SAAS on a trial basis at our election for no charge. Your use of SAAS is subject to any additional terms that we specify and is only permitted during the term designated (or, if not designated, until terminated in accordance with this Agreement).
- (c) Except as otherwise set forth in this clause, this Agreement fully applies to SAAS. We may terminate your right to use SAAS at any time and for any reason in our sole discretion, without liability to you.
- (d) You understand that SAAS is still under development, may be inoperable or incomplete and are likely to contain more errors and bugs than the generally available Services. We make no promises that SAAS will ever be made generally available.
- (e) In some circumstances, we may charge a fee in order to allow you to use SAAS, however they will still remain subject to this clause 7.
- (f) All information regarding the characteristics, features or performance of SAAS is our intellectual property and to be treated as confidential information.

8. Fees, Invoicing and Payment

- (a) This clause 8 does not apply to pro bono clients.
- (b) You must pay us the fees for the Services set out in the Proposal at the times specified in the Proposal as the date for payment (**Due Date**). We may, at our election, offer payment schedules for an invoice and in that case the Due Date for payment will be as agreed between the parties.
- (c) You will pay our tax invoices without set-off, deduction or otherwise in the currency stated. You are responsible for paying any currency exchange fees in addition to the invoiced amount.
- (d) Where the Proposal provides for ongoing Services, we will submit to you a valid tax invoice at intervals nominated in the Proposal.
- (e) In addition to the fees, we will be entitled to reimbursement by you for travel, accommodation and other out of pocket expenses reasonably incurred in connection with the provision of the Services.
- (f) If payment of any invoice is not made on the Due Date, we will be entitled to:
 - (i) suspend the provision of the Services until such times as any invoice due for payment is made in full; and
 - (ii) recover from you interest at the rate 2% above our banking institutions current benchmark interest rate accruing daily and all administration costs associated with late payment and recovery thereof.
- (g) In the event that provisions of the Services is suspended, we will not be liable for any loss or damage including consequential loss you suffer.
- (h) If any invoice remains unpaid after the due date specified in the Proposal or invoice (as applies), we have the right to engage debt collection or legal services for the collection of the unpaid invoice, and the right to commence legal proceedings for any outstanding amounts owed to us. You acknowledge and agree that you are liable for and will pay all costs including debt collection, commission, solicitor's fees and any out of pocket expense, and that we may place a default against you with a credit reporting agency. You will indemnify us for the amount of our legal and debt recovery costs on a full indemnity basis.
- (i) All amounts payable under the Agreement are expressed as excluding GST.
- (j) In respect of any taxable supply, you must pay us an additional amount equal to the prevailing GST rate, payable at the same time and in the same manner as the Fees, subject to our providing you with a valid tax invoice.

9. Termination and Consequences Following Termination

- (a) This Agreement expires on the Expiry Date, or if none is specified, at the end of the supply of Services under this Agreement.
- (b) A party may terminate this Agreement by written notice to the other if any of the following events has occurred in respect of the other party:
 - (i) a material breach of this Agreement, which is not remediable or if capable of remedy, where the other party fails to remedy within 14 days of written notice; and
 - (ii) any insolvency event occurs, other than an internal reconstruction with notice to the other party.
- (c) We may immediately terminate this Agreement by written notice if you commit a serious breach of any of your obligations, seriously damage our reputation, commit an act of dishonesty, fraud, or is charged with a criminal offence or wilfully neglects its obligations for the provision of the Services.

- (d) On expiry or termination of this Agreement, you will return all hard copies of any Confidential Information you have received or become aware of during the provision of the Services, and all other items of our property.
- (e) The expiry or termination of this Agreement for any reason will be without prejudice to any rights or liabilities of the parties which have accrued prior to the date of expiry or termination.

10. Limitation of Liability

- (a) To the fullest extent permitted by law, we exclude all:
 - (i) liability in respect of loss of data, interruption of business or any consequential or incidental damages arising out of or in respect of provision of the Services and/or Product; and
 - (ii) representations, warranties or terms (whether express or implied) other than those expressly set out in this Agreement.
- (b) Our total aggregate liability for all claims relating to this Agreement is limited to the fees payable therein.
- (c) Either party's liability for any claim relating to this Agreement will be reduced to the extent to which the other party contributed to the damage arising from the claim.
- (d) This Agreement is to be read subject to any legislation which prohibits or restricts the exclusion, restriction or modification of any implied warranties, conditions, guarantees or obligations. If such legislation applies, to the extent possible, we limit our liability in respect to any claim to, at our option, in the case of the Services:
 - (i) the supply of the Services again; or
 - (ii) the payment of the cost of having the Services supplied again.

11. Confidentiality

- (a) Our Services are achieved through a proprietary modelling process that is solely and entirely our intellectual property. By agreeing to this Agreement you agree to not disclose how our modelling process is designed, achieved, or any function thereof. Explanation on how we perform our services and derive our outputs is strictly confidential, copyrighted, and our intellectual property. If you desire to share and/or explain how our modelling process works with any internal or external entity, you must first seek our written consent or request our involvement in this explanation.
- (b) A party must not, without the prior written consent of the other, use or disclose the other party's confidential information unless expressly permitted by this Agreement or required to do so by law or any regulatory authority.
- (c) A party may:
 - (i) use the confidential information of the other party solely for the purposes of complying with its obligations and exercising its rights under this Agreement; and
 - (ii) disclose the confidential information to its personnel or advisers to the extent necessary for them to know the information for the purposes related to this Agreement, but only if reasonable steps are taken to ensure that the confidentiality of the information is retained.
- (d) Each party must implement and maintain effective security measures to prevent unauthorised use and disclosure of the other party's confidential information whilst it is in the receiving party's possession or control.

- (e) Each party must return, or at the other party's options destroy, all confidential information of the disclosing party in the receiving party's possession or control, on the earlier of a party's request or on termination of this Agreement for any reason.

12. Intellectual Property

- (a) Nothing in this Agreement constitutes a transfer of any intellectual property rights.
- (b) You acknowledge that we own all intellectual property rights in all information and material you access from us in the provision of the Services (excluding the Survey Data), and including any of our unregistered or registered trademarks.
- (c) You must not directly or indirectly do anything that would or might invalidate or put in dispute our title in or to their intellectual property.
- (d) If you provide us with copies of any of your unregistered or registered trademarks for use in our report, you are responsible for ensuring that it has been supplied with the consent of its owner or the authorised person of the entity that owns it. We will use the trademarks you have supplied in reliance of this clause, and you release us from any claim of trade mark infringement.

13. General Clauses

- (a) **Relationship:** Nothing in this Agreement constitutes us as your employee, partner, joint venture partner or agent.
- (b) **Governing Law:** This Agreement is governed by the laws of Queensland and the parties submit to the non-exclusive jurisdiction of the courts of that state.
- (c) **No Assignment:** You may not assign any rights or benefits under this Agreement without our prior written consent.
- (d) **Entire Agreement:** This Agreement is the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement, and supersedes any prior understanding, arrangement, representation or agreements between the parties as to the subject matter contained in this Agreement.
- (e) **Amendment:** An amendment or variation to this Agreement is not effective unless it is in writing and signed by all the parties. These Terms may be updated following the integration of our collection and analysis moving from a manual operation into a software-based service. We will notify all current and prospective clients in advance of this change, which will occur simultaneously with the change in data collection and analysis procedures. Any other updates or changes to these Terms of Service will result our personally contacting all you.
- (f) **Dispute Resolution:** If a dispute arises between the parties, the complainant must not commence any court or arbitration proceedings, except where that party seeks urgent interlocutory relief, unless it has first complied with this clause:
 - (i) The complainant must inform the respondent in writing of the following:
 - A. the nature of the dispute;
 - B. the outcome the complainant desires, and
 - C. the action the complainant believes will settle the dispute.
 - (ii) Endeavour to resolve dispute
 - A. On receipt of the complaint by the respondent, both parties will make every effort to resolve the dispute by mutual negotiation within 14 business days.
 - B. Any unresolved dispute or difference whatsoever arising out of or in connection with this Agreement shall be submitted to mediation.
 - C. This clause survives termination of this Agreement.

- (g) **Waiver and amendments:** Any waiver by any party to a breach of this Agreement shall not be deemed to be a waiver of a subsequent breach of the same or of a different kind.
- (h) **Events beyond control:** Neither party shall be liable to the other party for any loss caused by any failure to observe the terms and conditions of this Agreement, where such failure is occasioned by causes beyond its reasonable control including but not limited to by fire, flood, riot, strike, war, restrictions and prohibitions or any other actions by any government or semi government authorities. The party affected by an event pursuant to this clause, it will immediately give the other party a notice of its occurrence and its effect or likely effect, and use all reasonable endeavours to minimise the effect of the event and to bring it to an end.
- (i) **Severance:** If anything in this Agreement is unenforceable, illegal or void, it is severed and the rest of the Agreement remains in force.
- (j) **Notices:** A notice or other communication to a party must be in writing and delivered to that party or that party's practitioner in one of the following ways:
 - (i) delivered personally; or
 - (ii) posted to their address when it will be treated as having been received on the second business day after posting; or
 - (iii) sent by email to their email address, when it will be treated as received when it enters the recipient's information system.
- (k) **Counterparts:** This Agreement may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument and the date of the Agreement will be the date on which it is executed by the last party.
- (l) **Electronic Signature:** This Agreement may be executed by any and all parties by way of affixing an electronic signature which identifies the person affixing the signature. It is agreed that affixing an electronic signature is a reliable method of indicating approval of the contents of this Agreement. This Agreement may also be executed and delivered by email and the parties agree that such scanned execution and email delivery will have the same force and effect as delivery of an original document with original signatures. In either case, each party may use such electronic signature or scanned signature as evidence of the execution and delivery of this Agreement by all parties to the same extent that an original signature could be used.
- (m) **Costs:** Each party will pay their own costs in relation to this Agreement.

(n) **Definitions**

In this Agreement, unless otherwise indicated:

Agreement means these Terms of Service, the Proposal, any Proposal Variation, and any invoice issued under the Terms of Service.

GST means the tax that is payable or imposed as goods and services tax under the GST Act.

GST Act means the act of Australian Parliament titled *A New Tax System (Goods and Services Tax) Act 1999*.

Stakeholder means a third party entity or person who will disseminate the link to the Survey Data on your behalf.

Survey Data means all data collected by survey participants in its unaltered form, and its translated form after translation to English.

us, we, our means Third i Management Pty Ltd ACN 639 006 330.

you, your means the person or entity who is the client named in the Proposal or Proposal Variation for the Services.

